



501 W. Broadway, Suite 1490 | San Diego, CA 92101  
T | 619.338.1100 F | 619.338.1101  
www.bholaw.com

Timothy G. Blood  
tblood@bholaw.com

June 21, 2018

**VIA ECF**

Honorable Vince Chhabria  
United States District Court  
Northern District of California  
San Francisco Courthouse, Courtroom 4  
450 Golden Gate Avenue  
San Francisco, CA 94102

Re: *In re Facebook, Inc., Consumer Privacy User Profile Litigation*  
Lead Counsel Application

Dear Judge Chhabria:

Pursuant to Pretrial Order No. 1 (Doc. No. 2), I respectfully submit this application for lead counsel in the above captioned proceeding. I bring decades of experience efficiently managing and litigating complex class actions, a reputation for working well with both plaintiff and defense counsel, working productively with government agencies, crafting creative resolutions to complex cases, and litigating data breach and privacy laws. As supported by my attached resume, I believe I am well qualified to lead this MDL. *See* Exhibit A.

**Experience with MDLs, the litigation subject matter, and the claims:**

My extensive experience in consumer protection class action litigation and ability to work with and coordinate counsel has earned me leadership appointments in large complex class actions, including MDLs. These include appointment as Rule 23(g) class counsel and to the Executive Committee in *In re Johnson & Johnson Talcum Powder Prods. Mktg., Sales Practices, and Prods. Liab. Litig.*, MDL No. 2738 (D.N.J.) (consumer protection case involving coordination with thousands of individual personal injury cases); appointment to the Executive Committee in *In re Apple Inc. Device Performance Litig.*, MDL No. 2827 (N.D. Cal.); appointment as Co-Liaison Counsel (effectively lead counsel) and Plaintiffs' Steering Committee member in *In re Sony Gaming Networks and Customer Data Sec. Breach Litig.*, MDL No. 2258 (S.D. Cal.) (65-case data breach MDL); class counsel appointment in *In re Toyota Motor Cases*, JCCP No. 4621 (Cal. Super. Ct., Los Angeles Cnty.) (on behalf of California consumers in sudden unintended acceleration litigation); appointment as class counsel in *In re Skechers Toning Shoes Prods. Liab. Litig.*, MDL No. 2308 (W.D. Ky.) (false advertising case resulting in coordinated record-setting settlement with the Federal Trade Commission); and appointment as class counsel in *In re Hydroxycut Mktg. and Sales Practices Litig.*, MDL No. 2087 (S.D. Cal.) (requiring coordination with thousands of personal injury cases).

My work on behalf of consumers in complex litigation has led to record-setting resolutions, including a recent \$3.4 billion settlement with Toyota where the rust-prone frames of 1.5 million vehicles are inspected and replaced as needed (*Warner v. Toyota Motor Sales, Inc.* (C.D. Cal. 2017)); the largest false advertising recovery in FTC history (*In re Skechers Toning* (W.D. Ky. 2013)); and the largest false advertising settlement in food industry history (*Gemelas v. The Dannon Co.* (N.D. Ohio 2010)).





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I am very familiar with the type of data breach and privacy issues presented in this case. I have successfully formulated winning legal strategies in *In re Sony* which continue to be followed in data breach cases. *In re Sony* was among the largest data breach recoveries at the time. Currently, I am co-lead counsel in *Patton, et al. v. Experian Data Corp., et al.*, No. 15-cv-01871-JVS-PLA (C.D. Cal.), a data breach and privacy case. I am an Executive Committee member in *Snyder v. the Regents of the University of California*, JCCP No. 589243 (Cal. Super. Ct., Los Angeles Cnty.), a data breach case involving access to medical records of over 4.5 million patients. I also was part of the litigation team in the data breach action, *In re Adobe Systems Inc. Privacy Litig.*, No. 5:13-cv-05226-LHK (N.D. Cal.).

I have drafted and am working to pass legislation to modernize the California Customer Records Act, California's primary data breach and privacy protection law. I am the primary witness in favor of the legislation, testifying before committees in both the California Senate and Assembly.

**Ability to commit to time-consuming litigation and resources available to prosecute this litigation in a timely manner:**

I have a track record of successfully leading complex consumer class actions against some of the world's largest corporations. I fully recognize that this litigation will be time-consuming and require significant resources. I, along with my co-counsel in *Iron Wing, et al. v. Facebook, Inc.*, No. 3:18-cv-02122 and *O'Hara, et al. v. Facebook, Inc. et al.*, No. 8:18-cv-00571, already have invested time and resources in investigating plaintiffs' claims and the potential defendants and third parties, including retaining a variety of expert consultants. I agree to continue to commit the necessary time and resources to successfully prosecute this case.

This is a large and important case that implicates many app developers and companies. I believe the challenge in litigating this case will be maintaining a focused litigation that adequately captures the scope and magnitude of the conduct, while ensuring the case does not devolve into an unnecessary sprawl of dozens of tangential defendants. I believe my experience allows me to achieve the appropriate balance.

**Ability to work cooperatively with others:**

I bring a demonstrated capacity for a productive, cooperation-based approach to litigation that is essential to efficiently handling complex cases. In April 2018, when approving a \$32 million false advertising settlement with Proctor & Gamble after 7 years of litigation, appeals to the Supreme Court and on the verge of trial, the Honorable Timothy S. Black from the Southern District of Ohio described my "professionalism and expertise" in litigating the case as "stunning." My cooperative approach also has been noted by Law360. See Juan Carlos Rodriguez, Titan of the Plaintiffs Bar: Tim Blood, Law360, Sept. 25, 2014, <http://www.law360.com/articles/580600/titan-of-the-plaintiffs-bar-tim-blood> (including interviews with counsel describing productive litigation approach).



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I also have experience working with regulatory agencies in consumer protection litigation, which will likely be useful in this case. Currently, I am retained by the San Diego City Attorney in *People v. Experian Data Corp. et al.*, No. 37-2018-00011206-CU-BT-CTL (Cal. Super. Ct., San Diego Cnty.), a public enforcement action concerning data aggregators' violations of data breach notice laws. As lead counsel in *In re Skechers Toning Shoes Prods. Liab. Litig.* and *In re Reebok Easytone Litig.*, No. 4:10-cv-11977 (D. Mass.), I worked with the FTC in a unique partnership to obtain the record-setting result referenced above. Nearly all state attorneys general joined in the settlement.

My ability to productively lead other lawyers is demonstrated by my involvement in bar activities, including serving as the 2015 president of the Consumer Attorneys of San Diego and an executive officer from 2013 to the 2016 of the Consumer Attorneys of California. I frequently speak at continuing education seminars, including on data breach topics. This year I was awarded the Consumer Advocate of the Year by the Consumer Attorneys of San Diego.

I have successfully worked with most counsel in this MDL. The counsel identified in Exhibit B support my application here.

**Ability to maintain reasonable fees and expenses:**

I believe reasonable fees and expenses can be controlled through an agreed set of best practices for billing in accordance with Ninth Circuit guidelines, tight controls on work assignments, monthly submission of billing records and review of those billing records by lead counsel. I have a track record of obtaining large recoveries while incurring fee amounts that are modest in comparison. One recent example is the \$3.4 billion recovery against Toyota. This resulted from the thoughtful approach to the case taken by my firm (and that of my co-counsel, Ben Barnow) that emphasized results to the class.

Additionally, my experience with ESI discovery will allow me to address the complex discovery issues that will arise. I am a co-founder and steering committee member for the San Diego ESI Forum, a group of attorneys and federal and state judges who educate the bench and bar on ESI discovery and formulate best practices. See <http://sandiegoesiforum.com/>. With this expertise, I have successfully crafted ESI protocols in data breach and privacy cases and worked with defendants to obtain necessary discovery in an efficient and cost-effective manner.

My experience in data breach litigation, demonstrated ability to lead multi-case MDL proceedings, and proven skill at implementing a cooperative and productive approach to litigating complex class action matters renders me well qualified to lead this MDL.

Respectfully submitted,

s/ Timothy G. Blood  
Counsel for Plaintiffs  
*Iron Wing v. Facebook, Inc.*, No. 3:18-cv-02122  
*O'Hara v. Facebook, Inc. et al.*, No. 8:18-cv-00571